

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

Crl. Revision No.177 of 2006
Date of decision: February 01, 2007.

Makhan Singh

...**Petitioner(s)**

v.

State of Haryana

...**Respondent(s)**

Present: Shri G.S. Kaura, Advocate for the petitioner.

Surya Kant, J. (Oral)

Notice of motion. Mr. Tarun Aggarwal, learned Sr. DAG, Haryana accepts notice.

Heard Learned Counsel for the parties.

This revision petition is directed against the judgment and order dated 12.6.2006 passed by the learned Judicial Magistrate First Class, Siwani whereby the petitioner has been convicted under Sections 8 and 9 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 and has been sentenced to undergo RI for one year with a fine of Rs.500, as well as against the judgment dated 15.1.2007 passed by the learned Sessions Judge, Bhiwani whereby the aforementioned conviction and sentence have been affirmed.

The facts are in narrow compass. The petitioner was convicted to undergo rigorous imprisonment for seven years in a case arising out of FIR No.114 dated 15.4.1996, registered under sections 148/149/323/324/307/506/382 IPC and Section 25/54/59 of the Arms Act, Police Station City Hansi. While the petitioner was undergoing the sentence, he was released on parole for four weeks by the Director General of Prisons, Haryana vide his order dated 15.7.2005. The petitioner was to surrender in jail on 18.8.2005. However, having noticed that he did not surrender, a report was made on 27.8.2005 which led to registration of FIR No.122 dated

30.8.2005, under section 8/9 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 at Police Station Bawani Khera, District Bhiwani. The petitioner finally surrendered in jail on 30.11.2005. The the petitioner, upon trial, has been held guilty of absconding from the jail custody and has been accordingly convicted and sentenced.

Both the judgments reveal that no explanation, much less a plausible or convincing explanation, for his overstay, while on parole, has been rendered by the petitioner. The petitioner, instead of leading any defence evidence, was harping upon the minor discrepancies in the deposition of the prosecution witnesses, which have been fully explained, and rightly so, by the courts below.

Consequently, I do not find any factual or legal infirmity so far as the petitioner's conviction is concerned.

Learned Counsel for the petitioner, however, contends that the petitioner is not a habitual offender and the sentence of RI for one year for the above noticed jail offence is too harsh. It is contended that there is no other such like offence ever committed by the petitioner.

In the light of the mitigating circumstances explained by Learned Counsel for the petitioner and his positive assertion about good conduct of the petitioner while undergoing remainder of the original sentence, I am of the considered view that it will be in the fitness of things and in consonance with the administration of criminal justice, if the sentence of one year RI awarded to the petitioner by the courts below is reduced to RI for seven months. The fine of Rs.500/- imposed upon the petitioner, however, is liable to be increased to Rs.2,000/-.

Consequently, the impugned judgments and orders dated 12.6.2006 and 15.1.2007 passed by the courts below are modified to the extent that the petitioner shall be required to undergo RI for seven months and to pay fine of Rs.2,000/-. However, in case the petitioner fails to deposit the fine within a period of three months, he will be required to undergo another RI for two months.

Disposed of.

February 01, 2007.
kadyan

[**Surya Kant**]
Judge